

***** OFFICIAL ANNOUNCEMENT *****

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AGRARIAN AFFAIRS

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REGULATION OF STATE MINISTER OF AGRARIAN AFFAIRS
/HEAD OF THE NATIONAL LAND AGENCY
NUMBER : 5/1999 ; DATED : JUNE 24, 1999

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**A GUIDELINE FOR THE SETTLEMENT OF PROBLEMS RELATED TO THE COMMUNAL
RESERVED LAND OF THE CUSTOMARY-LAW-ABIDING COMMUNITY**

STATE MINISTER OF AGRARIAN AFFAIRS/HEAD OF THE NATIONAL LAND AGENCY

- Considering:**
- a. that Indonesia's national land laws recognize the presence of the communal reserved land title and the like belonging to the customary-law-abiding community, as long as it still exists in reality, as meant in the provisions in Article 3 of Law No. 5/1960 on the Basic Regulation of the Agrarian Principles (hereinafter referred to as the Law on Agrarian Principles);
 - b. that in reality, at present, there are still in many regions plots of land within the customary-law-abiding community of which the settlement, control and use are based on the provisions of the local customary laws and are recognized by the members of the customary-law abiding-community concerned as their communal reserved land;
 - c. that recently there have arisen, in many regions, many problems about the said communal reserved land title, with respect to both its existence and land control;
 - d. that in connection with this, it is necessary to provide a guideline which may be used as a guide in facing and settling the existing problems and in dealing with land affairs in general in connection with the said communal reserved land title belonging to the customary-law-abiding community in future;
 - e. that this guideline must be given in the form of a regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency.

**Bearing
in mind**

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- 1. Act No. 5/1960 on Basic Regulation of Agrarian Affairs;
 - 2. Act No.5/1967 on Basic Provision on Forestry;
 - 3. Act No. 11/1967 on Basic Provisions on Mining Affairs;
 - 4. Act No. 24/1992 on Spatial Layout;

5. Act No. 22/1999 on Regional Administration;
6. Government Regulation No. 40/1996 on the Land Title for Business Purposes, the Land Title for Building Purposes and the Land Use Title;
7. Presidential Decree No. 26/1988 on the National Land Agency;
8. Presidential Decree No. 122/1988 on the Establishment of the Development Reform Cabinet;
9. Presidential Decree No. 101/1998 on the Positions, Tasks, Functions, Organizational Structure and Working System of State Ministers.

HAS DECIDED :

To stipulate : THE REGULATION OF STATE MINISTER OF AGRARIAN AFFAIRS/ HEAD OF THE NATIONAL LAND AGENCY CONCERNING A GUIDELINE FOR THE SETTLEMENT OF PROBLEMS RELATED TO THE COMMUNAL RESERVED LAND TITLE OF THE CUSTOMARY-LAND-ABIDING COMMUNITY.

**CHAPTER I
GENERAL PROVISIONS
Article 1**

Referred to in this regulation as :

1. The communal reserved land title and the like, which belong to the customary-law-abiding community (hereinafter referred to as the communal reserved land title) shall be an authority which, pursuant to the customary law, rests with a particular customary-law-abiding community over a particular region constituting a living environment of its members, and which they can exercise to take benefits from the natural resources, including the land, within this region, for the continuity of their lives and living inasmuch as such authority arises from an uninterrupted physical and spiritual relationship from generation to generation between the said customary-law-abiding community and the region concerned.
2. Communal reserved land shall be a plot of land over which there is a communal reserved land title belonging to a particular customary-law-abiding community.
3. A customary-law-abiding community shall be a group of people bound by their customary law system as communal members of a legal union because of a common dwelling place or on the basis of lineage.
4. A region shall be an autonomous region authorized to deal with land affairs as meant in Law No. 22/1999 on Regional Administration.

**CHAPTER II
IMPLEMENTATION OF CONTROL OVER COMMUNAL RESERVED LAND
Article 2**

- (1) The communal reserved land title, as long as it still actually exists, shall be exercised by the customary-law-abiding community pursuant to the provisions of the local customary law.
- (2) The communal reserved land title of a customary-law-abiding community shall be considered as still being in existence if :

- a. there is a group of people who feel that they are still bound by their customary law system as communal members of a particular legal union and who recognize and apply the provisions of the said union in their daily lives;
- b. there is a particular plot of communal reserved land which constitutes the living environment of the members of the said legal union and the place where they take their daily necessities for their lives; and
- c. there is a customary law system about the settlement, control and use of the communal reserved land, which still prevails and is adhered to by the members of the said legal union.

Article 3

The exercise of the communal reserved land title of the customary-law-abiding community as meant in Article 2 can no longer apply to the plots of land which, at the time of the stipulation of the regional as meant in Article 6 :

- a. are already possessed by individuals or legal entities by virtue of a particular land title pursuant to the Law on Agrarian Principles;
- b. constitute plots of land already acquired or appropriated by Government institutions, legal entities or individuals pursuant to the prevailings and procedure.

Article 4

- (1) Control over plots of land included as communal reserved land as meant in Article 2 by individuals and Legal entities may be conducted;
 - a. by members of the customary-law-abiding, community concerned by virtue of the title of control pursuant to the prevailing customary law, which if so desired by the title holder, can be registered as an appropriate land title pursuant to the Law on Agrarian Principles;
 - b. by government agencies, legal entities or individuals who are not members of the customary-law-abiding community concerned by virtue of the land title pursuant to the provisions of the Law on Agrarian Principles on the basis of the granting of the title from the State after the said land has been given up by the said customary-law-abiding community or by its members pursuant to the provisions and procedure of the prevailing customary law.
- (2) The communal reserved land as meant in paragraph (1) letter b for agricultural and other purposes requiring the land title for business purposes or the land use title may be given up by the customary-law-abiding community by means of surrendering the use of land for a particular period of time, so that after this period expires, or after the said land is no longer used or is neglected so that the land title for business purposes or the land use title concerned is annulled, further use must be based on a new agreement from the customary-law-abiding community concerned as far as the said communal reserved land of the customary-law-abiding community still exists pursuant to the provision in Article 2.
- (3) In cases as meant in sub-section (2) the land title for business purposes and the land use title granted by the state and their extension as well as renewal may not exceed the period of land use obtained from the customary-law-abiding community concerned.

CHAPTER II
DETERMINATION OF WHETHER THE COMMUNAL RESERVED LAND
TITLE STILL EXISTS AND FURTHER REGULATION
OF THE COMMUNAL RESERVED LAND CONCERNED

Article 5

- (1) An examination and determination of whether their communal reserved land title as meant in Article 2 still exists shall be conducted by a regional administration by involving customary law experts, the customary-law-abiding community in the region concerned, non-governmental organizations and government agencies, managing natural resources,
- (2) The presence of existing communal reserved land of the customary-law-abiding community as meant in sub-section (1) shall be expressed on a land registration basic map by affixing a cartographic mark, and if possible, by giving the boundaries and registering them in the land register.

Article 6

Further provisions about the implementation of Article 5 shall be regulated in a regional regulation concerned.

CHAPTER IV
CLOSING PROVISION

Article 7

This regulation shall take effect as from the date of stipulation.

Stipulated in Jakarta
On June 24, 1999
THE STATE MINISTER OF AGRARIAN AFFAIRS/
HEAD OF NATIONAL LAND AGENCY
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HASAN BASRI DURIN
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